

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 112 of 1992

Date of Decision :- March 19, 2007

Lachhi and another

....PETITIONERS

VERSUS

State of Haryana

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL

Present:- Mr. Ajay Kaushik, Advocate
for the petitioners.

Mr. Kulvir Narwal, Addl. Advocate General, Haryana
assisted by Mr. A.P.Bhandari, Advocate.

MEHTAB S.GILL, J.

This is a revision against the judgment dated 4.2.1992 of the Additional Sessions Judge, Faridabad, whereby he modified the judgment dated 11.12.1991 of the Judicial Magistrate 1st Class, Palwal by reducing the sentence of Lachhi son of Daya Krishan and Gianwati w/o Lachhi from one year R.I. to six months. Various terms of sentence was imposed.

The case of the prosecution is that Kamal alias Kanwar Lal was an employee in the Sessions Court at Faridabad. Land measuring 48 kanals situated in Village Bhagola, Tehsil Palwal was owned by Daya

Kishan, father of Kamal alias Kanwar Lal and petitioner Lachhi. Daya Kishan transferred this land to Kamal complainant by a decree, dated 11.12.1986 in Civil Suit No.1166 of 1985. Mutation Ex.PX was sanctioned on 23.12.1987. Petitioner/accused Lachhi had filed a suit for setting aside the decree, but was not successful upto the District Judge. He then filed a Second Appeal in the High Court. On 27.12.1987 Kamal alias Kanwar Lal hired a tractor of Bhawani Shankar Sarpanch and along with Mool Chand went to the fields. Six acres of land was ploughed by 3 p.m. In the meantime, both petitioners/accused Lachhi and Gianwati w/o Lachhi came there. Lachhi raised a lalkara to teach them a lesson. Lachhi thereafter gave a lathi blow on the hip of Kamal. Mool Chand came running to save Kamal, but Lachhi gave one lathi blow on his calf muscle. He gave another lathi blow on the thumb of his right hand and then Gianwati alias Gianwati gave a lathi blow on the right calf muscle of Mool Chand. Petitioners/accused thereafter fled away. On the basis of the statement of Kamal alias Kanwar Lal, DDR No.21 Ex.PW1/A was recorded at 3.30 p.m.

The prosecution to prove its case brought into the witness box Ram Dutt ASI as PW1, Kamal alias Kanwar Lal as PW2, Mool Chand as PW3, Dr. V.K.Jain as PW4 and Bhawani Shankar as PW5.

Learned counsel for the petitioners has argued, that as per the statement under Section 313 Cr.P.C. of the petitioners, Lachhi was in possession of the land and had sown Jaie crop. The complainant party had come to destroy this crop, with the tractor of Bhawani Shankar Sarpanch PW5. Both Lachhi and Gianwati asked them not to do so and in fact it is

the complainant, who gave beatings to them (Lachhi and Gianwati). Copy of Khasra Girdawari Ex.D1 clearly shows that Lachhi was in possession of the land, which was the bone of contention between both the complainant and the petitioners.

Learned counsel for the State has argued, that the place of occurrence and tractor of Bhawani Shankar Sarpanch PW5 being used has been admitted by the petitioners. The testimony of Kamal alias Kanwar Lal PW2 and Mool Chand PW3 is cogent and truthful, as both Kamal and Mool Chand have received injuries on their persons. Ram Dutt ASI PW1, who prepared the site plan Ex.PW1/B, has also pinpointed the place of occurrence to being the same, as admitted by both the parties.

I have heard the learned counsel for the parties, perused the record and the impugned judgments with their assistance.

Place of occurrence has been admitted. Mutation Ex.PX shows that Daya Kishan, the father of accused Lachhi and complainant Kamal alias Kanwar Lal PW2, was owner of the land described in Civil Suit No.1166 of 1985. This suit was decided against Lachhi accused. Khasra Girdawari Ex.D1 is of no help to the petitioners. This is for the period of Kharif 1984 to Rabi 1987 and it shows the land in dispute was in possession of Daya Kishan.

I do not find any infirmity in the judgment of the learned Additional Sessions Judge, Faridabad. Revision is of the year 1990 and the occurrence had taken place in 1987.

I am of the considered opinion that the ends of justice would be met by modifying the sentence to that already undergone. Conviction

shall stand the same, as already awarded by the learned Additional Sessions Judge.

With the above modification in sentence, revision petition is dismissed.

March 19, 2007
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(MEHTAB S.GILL)
JUDGE

WHETHER TO BE REFERRED TO REPORTER? YES/NO